



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
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March 28, 2012

Mr. Samuel R. Hampton
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, Indiana 47838

Re: Formal Complaint 12-FC-60; Alleged Violation of the Access to Public Records Act by the Marion County Department of Child Services

Dear Mr. Hampton:

This advisory opinion is in response to your formal complaint alleging the Marion County Department of Child Services ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Robert J. Henke, Deputy General Counsel, responded on behalf of the Department. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that you submitted two written requests to the Department for copies of a report concerning an investigation conducted by the Department. As of February 29, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege the Department has failed to respond to your request in any fashion.

In response to your formal complaint, Mr. Henke advised that you provided no clear indication in your formal complaint the date when you submitted to the Department your request for records. Regardless, all records responsive to your request were sent to you on March 1, 2012.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See* I.C. § 5-14-3-1. The Department is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the

Department's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, you have not provided in your formal complaint the date you submitted your request for records to the Department. As such, I am unable to determine whether the Department responded to your request within the timelines provided by section 9 of the APRA. As the Department has provided to you all records that are responsive to your request, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the Department did not violate the APRA.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage
Public Access Counselor

cc: Robert J. Henke